

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Case No.: 3:21-cv-00133-MMD-CSD

TERRANCE E. WILLIAMS,

Plaintiff

v.

RYALS, et al.,

Defendants

**Order**

Re: ECF Nos. 42, 45, 47

Plaintiff has filed an objection to the production of his complete medical file. (ECF No. 42.) Defendants filed a response. (ECF Nos. 45, 45-1 to 45-14, amended response at ECF Nos. 47, 47-1 to 47-15.)

**I. BACKGROUND**

Plaintiff is currently an inmate in the custody of the Nevada Department of Corrections (NDOC), however, the events giving rise to this action took place while Plaintiff was housed at the Washoe County Detention Facility (WCDF), presumably as a pretrial detainee. Plaintiff is proceeding pro se with this action pursuant to 42 U.S.C. § 1983.

The court screened Plaintiff's Second Amended Complaint (SAC) and allowed him to proceed with an excessive force claim against defendants Deputy Wueper, Deputy Santos, and Deputy Reza. The claim is based on allegations that Deputies Wueper and Santos deployed pepper spray against him, and he subsequently had abnormal x-rays and fluid in his lung. He alleges that Deputy Reza filmed the incident without intervening.

On January 27, 2022, Plaintiff filed a document advising the court that he received a letter from Defendants' counsel, Keith G. Munro, on December 17, 2021, requesting Plaintiff's

1 complete medical file. Plaintiff objects to the full contents of his medical file being accessed by  
2 Defendants, when the part of the file that is relevant is a chest x-ray that was produced on  
3 June 9, 2021.

4 Defendants filed a response and amended response to Plaintiff's objection to producing  
5 his entire medical file. (ECF Nos. 45, 47.) Defendants requested a copy of Plaintiff's complete  
6 medical file in discovery. (ECF No. 45-1 at 3.) Plaintiff did not respond. On January 12, 2022,  
7 Mr. Munro sent Plaintiff a letter, asking for the responsive documents by January 26, 2022, and  
8 advised Plaintiff that if the file was not received, Mr. Munro would move to compel production  
9 of the file. (ECF No. 45-6.) On January 20, 2022, Mr. Munro sent another letter stating that he  
10 had not received the discovery, and would move to compel the requested records. (ECF No. 45-7  
11 at 2.) On January 24, 2022, Mr. Munro sent Plaintiff yet another letter, explaining why the  
12 medical records are relevant to this action. The letter enclosed a subpoena for the medical  
13 records, and asked Plaintiff to sign a release for his records, or Defendants would seek an order  
14 compelling their production. (ECF No. 45-8.)

15 Defendants argue that Plaintiff has mental health problems, and during the incident that is  
16 at issue in this litigation, he had stopped taking his mental health medication and was threatening  
17 staff with physical violence. As such, they contend that his health and his willingness or  
18 unwillingness to take his medication in custody are relevant to this litigation. They assert that  
19 before discovery closes, they will work with Plaintiff in hopes that he will produce a copy of his  
20 medical file (along with other discovery requested).

## 21 II. DISCUSSION

22 A party from whom discovery is sought may move for a protective order, and the court  
23 may "for good cause, issue an order to protect a party or person from annoyance, embarrassment,

1 oppression or undue burden or expense[.]” Fed. R. Civ. P. 26(c)(1). “The motion must include a  
2 certification that the movant has in good faith conferred or attempted to confer ... in an effort to  
3 resolve the dispute without court action.” *Id.*

4 In addition, a party may move for an order compelling discovery if another party fails to  
5 respond to an interrogatory or to produce documents. Fed. R. Civ. P. 37(a)(1), (3)(B)(iii), (iv). A  
6 motion to compel must also include a certification that the moving party has engaged in a good  
7 faith effort to meet and confer in an effort to resolve the dispute without court intervention. *Id.*

8 Neither party has filed a motion to compel or motion for protective order; therefore, there  
9 is nothing for the court to act on at this point. To the extent that Plaintiff’s objection could be  
10 construed as a motion for a protective order, Plaintiff has not included the required meet and  
11 confer declaration.

12 In any event, the parties are reminded that any party “may obtain discovery regarding any  
13 nonprivileged matter that is *relevant* to any party’s claim or defense and proportional to the  
14 needs of the case[.]” Fed. R. Civ. P. 26(b)(1) (emphasis added). “Information within the scope of  
15 discovery need not be admissible to be discoverable.” *Id.* The court has not received a motion  
16 briefing the issue of relevance of Plaintiff’s complete medical file, but after reviewing  
17 Defendants’ response to Plaintiff’s objection, it is likely the court would find the medical file is  
18 relevant and discoverable.

19 Discovery motions will not be considered unless the moving party has made a good faith  
20 effort to meet and confer before filing the motion, and the motion must include a declaration  
21 setting forth the details and results of the meet and confer conference about each disputed  
22 discovery request. LR 26-6(c). There must be a sincere effort made to resolve or narrow the  
23 dispute. The meet and confer requirement may be satisfied through written communication in a

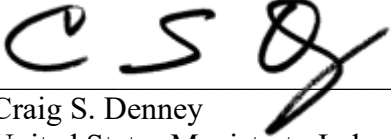
1 case involving an incarcerated individual appearing pro se, but the moving party must follow the  
2 requirements set forth in Local Rule IA 1-3(f) and Local Rule 26-6.

3 **III. CONCLUSION**

4 To the extent Plaintiff's objection (ECF No. 42) can be construed as seeking a protective  
5 order, the request is **DENIED** as Plaintiff has not submitted the certification that he engaged in a  
6 good faith effort to resolve the dispute before filing his motion.

7 **IT IS SO ORDERED.**

8 Dated: February 8, 2022

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10 Craig S. Denney  
11 United States Magistrate Judge  
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